

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KURTIS E. ARMANN)
)
Petitioner)
v.) C.A. No. 04-118 Erie
)
WARDEN, FCI-MCKEAN,)
)
Respondent.)

**PETITIONER'S RESPONSE TO RESPONDENT'S MOTION TO
UNSEAL AND TO STRIKE PLAINTIFF'S EXHIBITS**

AND NOW, comes the petitioner, Kurtis E. Armann, by his attorney, Assistant Federal Public Defender Thomas W. Patton, and files this response to the Respondent's Motion to Unseal and to Strike Plaintiff's Exhibits. In support thereof counsel states:

Since May 11, 2005, Mr. Armann and his counsel have had an opportunity to review the sealed documents and discussed their content. As Mr. Armann told the court during the May 11, 2005, hearing, he did not have the opportunity to review these documents before being handed the documents during the hearing. The documents are troubling when coupled with the item that was removed from Mr. Armann's leg while he was incarcerated at the United States Disciplinary Barracks at Fort Leavenworth, Kansas. No one has ever been able to provide Mr. Armann with an explanation as to what the object was, and since the Army destroyed the item, it is impossible at this point to determine its origin or purpose. However, Mr. Armann cannot authenticate the sealed documents and cannot establish the truth of the matters set forth in the documents. Accordingly, Mr. Armann agrees that the documents should be struck from the record.

While agreeing that these records should be struck, Mr. Armann continues to argue that

he is entitled to an evidentiary hearing on the claims raised in his petition for habeas corpus. As will be explained to the Court in a separate motion for an evidentiary hearing, on the day Mr. Armann plead guilty he was under the influence of massive amounts of barbiturates and other prescription medications making it impossible for him to understand the nature of the proceedings or to intelligently assist in his defense. Accordingly, while the documents that are the subject of this motion are no longer at issue, habeas relief is still appropriate.

Respectfully submitted,

/s/ Thomas W. Patton
Thomas W. Patton
Assistant Federal Public Defender
P.A. I.D. No. 88653